

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE Dallas DISTRICT OF TEXAS
DIVISION

Demario L. Wiley 99037069

Plaintiff's name and ID Number

Dallas County Jail

Place of Confinement

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED
JUN 29 1999
NANCY DOHERTY, CLERK
By Deputy

3 - 99 CV 1478 - D
CASE NO.
(Clerk will assign the number)

v.

Roger H. Kroll D.P.D.

Defendant's name and address

Lawrence Nichols D.P.D.

Defendant's name and address

M. Gammie D.P.D.

Defendant's name and address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$150.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$150 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? YES NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: _____

2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____

3. Court: (If federal, name the district; if state, name the county.) _____

4. Docket Number: _____

5. Name of judge to whom case was assigned: _____

6. Disposition: (Was the case dismissed, appealed, still pending?) _____

7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: Dallas County Jail

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution?

YES NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Roger A. Ridloff, Lawrence Nichols,
and Officer McGinnis. All are from the Dallas
Police Department.

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Roger A. Ridloff, Dallas Police Department

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Stampeded me on the forehead and struck me several times with his flashlight.

Defendant #2: Lawrence Nichols, Dallas Police Department.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Sprayed me in the eyes, nose and mouth with OC spray.

Defendant #3: Officer McGinnis. Stampeded me in the back of my head causing the right side of my eye to split.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

and made a racist comment Did you think your blackness could get away from us. He also punched me twice in the stomach.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V.

STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

On or about March 8th 1999. Officer Roger A. Ridloff slammed me on the concrete and struck me several times in the face with his flashlight.

Officer Lawrence Nichols sprayed me in the eyes nose and mouth with OC spray. After I was handcuffed and or both of the officers began to pull my arms up towards my head. Saying to me Shut up you black bastard before we give you something to yell about.

Officer McGinnis stomped me in the back of my head and caused the right side of my eye to be split open. He also kicked me once in the stomach. He made a racist comment (Did your black ass really think you could get away from us.)

RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

1,000,000.00

VII. GENERAL BACKGROUND INFORMATION:

- A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Demarcus L. Mosby

- B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

W114747

VIII. SANCTIONS:

- A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

- B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case Number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied?

YES NO

- C. Has any court ever warned or notified you that sanctions could be imposed? YES NO
- D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____
2. Case Number: _____
3. Approximate date warnings were imposed: _____

Executed on: 6-15-99
DATE

Demarco L. Mosby
(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$150 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this 6-15-99 day of June, 19 99.
(Day) (month) (year)

Demarco L. Mosby
(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.

VENUE LIST

The Northern District of Texas has seven divisional offices. Listed below are the locations and the counties they serve.

- I. **Abilene Division:** serves Callahan, Eastland, Fisher, Haskell, Howard, Jones, Mitchell, Nolan, Shackelford, Stephens, Stonewall, Taylor and Throckmorton counties

United States District Court
341 Pine Street, Room 2008
Abilene, Texas 79601-5928

2. **Amarillo Division:** serves Armstrong, Brisco, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher and Wheeler counties

United States District Court
205 E. Fifth, Box F-13240
Amarillo, Texas 79101-1559

3. **Dallas Division:** serves Dallas, Ellis, Hunt, Johnson, Kaufman, Navarro and Rockwall counties

United States District Court
1100 Commerce, Room 14A20
Dallas, Texas 75242-1003

4. **Fort Worth Division:** serves Comanche, Erath, Hood, Jack, Palo Pinto, Parker, Tarrant and Wise counties

United States District Court
501 West 10th Street, Room 310
Fort Worth, Texas 76102-3673

5. **Lubbock Division:** serves Bailey, Borden, Cochran, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, Lamb, Lubbock, Lynn, Motley, Scurry, Terry and Yoakum counties

United States District Court
1205 Texas Avenue, Room C-221
Lubbock, Texas 79401-4091

6. **San Angelo Division:** serves Brown, Coke, Coleman, Concho, Crockett, Glasscock, Irion, Menard, Mills, Reagan, Runnels, Schleicher, Sterling, Sutton and Tom Green counties

United States District Court
33 E. Twohig Street, Room 202
San Angelo, Texas 76903-6451

7. **Wichita Falls Division:** serves Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Knox, Montague, Wichita, Wilbarger and Young counties

United States District Court
1000 Lamar Street, Room 203
Wichita Falls, Texas 76301-3431

On March 8th 1999 Officers from the Dallas Police Department.

Beat me so badly that I was admitted into the I.C.U unit at Parkland Hospital. Roger A. Rockhoff, Lawrence Nichols and Officer McGinnis. Me and my friend Mrs. Linda Payne were about to go get something to eat. We had just got finish playing Dominos with her cousin Rod and one of mrs Paynes friends.

When two DPD cars pulled up in front of Mrs. Paynes house.

One of the officers got out and said who's car is this. (It was a stolen car parked on the street) The other one went towards Mrs. paynes son in her front yard and began to search him. Then the officer came towards me and Mrs. Payne. He searched Mrs. Payne. Then he began to search me. "I said what did I do? I didn't do nothing." The officer then became very aggressive and slammed me into the street and began hitting me in my face with his flash light. Then another officer came from the my right side and sprayed me with OC spray in my eyes nose and mouth. Then they flipped me over and handcuffed me and started pulling my arms up towards my head. One of the officers said to me shut up you black bastard before we ^{pull} give you something to

tell him my name, I was almost completely out of breath
I couldn't say it fast like a regular person. Once I got down
here (Dallas County jail) I passed out. The next thing I
knew I was in ICU with holes in my nose, mouth
penis and arms.

I now suffer from migraine headaches, back spasms ~~and~~ and
I am taking medication for it, but its not working.
I also lost some of the vision in my right eye and
I can't taste my food the same.

All this ~~area~~ happened on Verdun Avenue, Dallas
TX.

This is a case of police brutality,
This is not Justice.

Demarcus J. Mobley
6-15-99